

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 3:05-cr-184

- vs -

District Judge Walter H. Rice
Magistrate Judge Michael R. Merz

MARK J. THORNTON,

Defendant. :

ORDER STRIKING PRO SE MOTION

This case is before the Court upon the filing *pro se* by Defendant Mark J. Thornton of his Motion to Reduce Sentence under the First Step Act (ECF No. 320). First Step Act motions have been referred to the undersigned pursuant to General Order Day 13-01.

Upon examination of the docket, the Magistrate Judge notes that Thornton is presently represented by counsel in this case, attorney Thomas Eagle. A party represented by counsel may not file papers *pro se*. 28 U.S.C. § 1654 provides that “parties may plead and conduct their own cases personally or by counsel.” The disjunctive “or” in the statute means that a litigant must choose between proceeding *pro se* and proceeding with the assistance of counsel. *United States v. Jimenez-Zalapa*, 2007 WL 2815563 (W.D. Tenn. 2007)(Breen, J.); see also *United States v.*

Mosely, 910 F.2d 93, 97-98 (6th Cir. 1987); *United States v. Vampire Nation*, 451 F.3d 189 (3rd Cir. 2006).

Because Thornton is represented by counsel in this case, his *pro se* Motion is STRICKEN without prejudice to the filing of a similar motion by counsel.

February 28, 2020.

s/ *Michael R. Merz*
United States Magistrate Judge